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14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16
17 SALEM VEGAS, L.P., a Delaware Limited
18 Partnership, by and through its General
19 Partner, Salem Vegas Investments, LLC, a
Florida limited liability company,

20 Plaintiff,

21 vs.

22 ANTHONY GUANCI, an individual,

23 Defendant.

24 Case No.: 2:12-cv-01892-GMN-CWH

25 **JOINT STATUS REPORT AND
26 STIPULATION AND ORDER TO
27 MODIFY SCHEDULING ORDER**

28 **(EIGHTH REQUEST)**

1 On October 17, 2014, the Court issued its written order (ECF No. 144) granting
 2 Anthony Guanci's motion to dismiss plaintiff Salem Vegas, LP's ("Salem") second
 3 amended complaint. Salem then filed its third amended complaint on November 12, 2014,
 4 per the Court's order (ECF No. 147). On December 3, 2014, Mr. Guanci filed a motion to
 5 dismiss the third amended complaint, and the parties filed their respective response and
 6 reply on December 22, 2014 and January 1, 2015 (ECF No. 148, 149, 150). Mr. Guanci's
 7 motion remains under submission with the District Court.

8 Because Mr. Guanci's motion remains under submission, and this case is still at the
 9 pleadings stage (among other things, Salem is unaware of what affirmative defenses Mr.
 10 Guanci intends to pursue, or whether Mr. Guanci intends to assert any counterclaims, as Mr.
 11 Guanci has not yet been required to assert such pleadings), the Parties respectfully submit
 12 that good cause exists for the Honorable Magistrate Judge to modify the existing scheduling
 13 order, as it would be premature for the parties to, among other things, complete expert
 14 discovery before they know what claims, defenses and counterclaims might be at issue.
 15 Accordingly, Mr. Guanci and Salem, by and through their respective counsel, hereby
 16 stipulate and agree, pursuant to Local Rules 6-1 and 26-4, and subject to Court approval, to
 17 modify the Court's February 20, 2015 Scheduling Order (ECF No. 154) as set forth herein.

18 1. On February 20, 2015, the Honorable Magistrate Judge entered an Order
 19 (ECF No. 154) which set the following deadlines:

- 20 • Initial expert designations: June 5, 2015
- 21 • Rebuttal expert designations: July 6, 2015
- 22 • Discovery cutoff: August 4, 2015
- 23 • Dispositive motions: September 4, 2015

24 2. As set forth above, the Parties bring the instant stipulation to modify the
 25 scheduling order because, at present, Mr. Guanci's motion to dismiss Salem's third
 26 amended complaint remains under submission, and the June 5, 2015 deadline for initial
 27 expert designations is rapidly approaching. As a result, Mr. Guanci does not know what
 28 claims against him will survive the pleadings stage, nor does Salem know what affirmative

1 defenses or counterclaims will even be asserted by Mr. Guanci. The Parties have completed
 2 a significant volume of written and document discovery. The majority of what remains at
 3 this juncture are the depositions of certain percipient witnesses and all expert discovery. As
 4 explained in greater detail below, the Parties respectfully request a 180-day extension of the
 5 deadlines set forth in the current scheduling order because the pleadings are currently in a
 6 state of flux, and the parties are loathe to incur the expense attendant with completing
 7 discovery before the pleadings are even set.

8 3. On **November 12, 2014**, Salem filed a Third Amended Complaint (ECF No.
 9 147) for breach of contract and fraudulent inducement. On **December 3, 2014**, Guanci filed
 10 a motion to dismiss the third amended Complaint (ECF No. 148). Salem filed its Response
 11 (ECF No. 149) on **December 22, 2014**, and Guanci filed his Reply to the Response on
 12 **January 1, 2015** (ECF No. 149). The motion is not currently set for hearing, and the June
 13 5, 2015 deadline to make initial expert disclosures is approaching.

14 4. Because the pleadings are not set, under the current schedule, the Parties will
 15 be forced to expend significant resources attempting to complete discovery (including in
 16 particular the costs associated with retaining experts to analyze the case and prepare
 17 reports), all without actually knowing what claims and defenses are being litigated (as it is
 18 unclear whether there will be an operative complaint pending, as well as what form it will
 19 take, until the court issues its order). Accordingly, both sides agree that the most prudent
 20 course of action would be to stipulate to an extension of the presently-pending discovery
 21 deadlines, so that the Court can resolve this round of pleadings motions.

22 5. **Discovery Completed:** As set forth above, the Parties have completed a
 23 significant volume of written and document discovery. The parties have also completed the
 24 deposition of Salem's Eugene Kessler, Stuart Kessler, Ray Parelo and Salem's 30(b)(6)
 25 designee (subject to a handful of disputes regarding the propriety of certain objections and
 26 the preparedness of the 30(b)(6) designee to testify on certain topics).

27 6. **Discovery Remaining to be Completed:** In addition to the exchange of
 28 expert disclosures and rebuttal expert disclosures, the parties anticipate the depositions of

1 the following individuals: Guanci and Salem Vegas Investments, LLC (per FRCP
 2 30(b)(6)). The Parties recognize that the need for some of these depositions might be
 3 obviated, and the need for other depositions as well as additional document discovery might
 4 become apparent, once the pleadings are settled.

5 7. **Reasons Why Discovery Will Not Be Completed Before the Expiration of**
 6 **the Current Deadlines:** As set forth in the above paragraphs 1 through 4, the purpose of
 7 this stipulation is to ensure that the proverbial cart does not come before the proverbial
 8 horse – namely, that the pleadings will be set before the Parties (which have already
 9 conducted significant threshold discovery) are forced to incur the significant expense of
 10 expert discovery.

11 8. **Requested Modification to the Scheduling Order:** Based on the foregoing,
 12 the Parties respectfully request that the current deadlines be modified as follows (or to such
 13 other dates as the Honorable Magistrate Judge deems appropriate):

- 14 • Initial expert designations: December 2, 2015
- 15 • Rebuttal expert designations: January 2, 2016
- 16 • Discovery cutoff: February 1, 2016
- 17 • Dispositive motions: March 2, 2016

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1 9. Good cause exists to extend the deadlines for the reasons discussed above.
2 Therefore, the Parties respectfully request that the Honorable Magistrate Judge approve this
3 Stipulation.

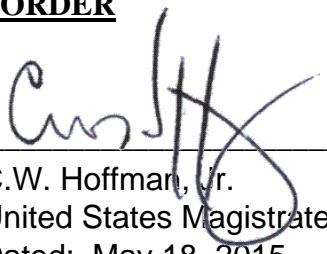
4 Respectfully submitted,
5

6 */s/--Kevin S. Sinclair*
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17
18 IT IS SO ORDERED.
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ORDER


19 C.W. Hoffman, Jr.
20 United States Magistrate Judge
21 Dated: May 18, 2015.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 15, 2015, I caused to be served the **foregoing JOINT STATUS REPORT AND STIPULATION AND ORDER TO MODIFY SCHEDULING ORDER (EIGHTH REQUEST)** via electronic mail through the United States District Court's CM/ECF system to the following at their last known electronic mail address:

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